

LAW OFFICES OF MARK S. SMITH
456 WEST O'BRIEN DRIVE, SUITE 102-D
HAGATÑA, GUAM 96910
TELEPHONE: (671) 477-6631/32
FACSIMILE: (671) 477-8831

*Attorneys for Plaintiff
Thomas Koichi Nakamine
dba: Takai's Enterprise*

FILED
DISTRICT COURT OF GUAM
MAR 24 2005

MARY L.M. MORAN
CLERK OF COURT

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IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM

THOMAS KOICHI NAKAMINE
dba TAKAI'S ENTERPRISE,

Plaintiff,

vs.

CITIBANK, N.A. (GUAM), PATRICK
KEHRES, individually, and DOES 1-10,
inclusive,

Defendants.

CIVIL CASE NO. 03-00047

**FIRST REVISED SCHEDULING
ORDER**

Pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure and Local Rule 16.1 for the District Court of Guam, the parties hereby submit the following Scheduling Order:

1. **The nature of the case is as follows:** Plaintiff, THOMAS KOICHI NAKAMINE dba TAKAI'S ENTERPRISE ("Takai"), initiated this lawsuit by filing a five-claim complaint in the Superior Court of Guam. In the first claim, Plaintiff alleges that Citibank breached its contractual duties to Plaintiff by failing to timely process Plaintiff's telegraphic funds transfer application. The second claim is for breach of the same contract, except that here Plaintiff contends that Citibank breached a contractual duty of good faith and fair dealing. In the third

claim (which contain three sub-counts) Plaintiff, relying on 13 G.C.A. § 4104(1), alleges that Citibank was negligent in the handling and processing of Plaintiff's wire transfer requests. In the fourth claim, Plaintiff alleges Citibank's action resulted in the intentional infliction of emotional distress. In the fifth claim, Plaintiff alleges that both Citibank and Defendant Kehres converted Plaintiff's funds held by Citibank by refusing to immediately release them to Plaintiff.

Citibank denies all allegations of wrongdoing.

2. **The posture of the case is as follows:** Plaintiff filed a Complaint with a request for jury trial on December 12, 2003. Defendants timely removed the matter to the District Court of Guam on December 31, 2003 pursuant to the 12 U.S.C. § 632 ("the Edge Act"). Defendants thereafter timely responded to the Complaint by filing an Answer on January 5, 2004.

(a) **The following motions are on file:** No motions have been filed by any party.

(b) Discovery will proceed in accordance with the First Revised Joint Discovery Plan incorporated herein.

3. All motions to add parties and claims shall be filed on or before **June 30, 2004**.

4. All motions to amend pleadings shall be filed on or before **April 30, 2004**.

5. **Status of discovery:** The parties' First Revised Joint Discovery Plan filed herewith is adopted and incorporated as part of this Scheduling Order.

6. The parties have previously appeared before the District Court on **March 30, 2004**, at **3:15 p.m.**, for the Scheduling Conference.

7. The discovery cut-off date (defined as the last day to file responses to discovery) is **July 15, 2005**.

8. (a) The anticipated discovery motions are: Throughout this litigation the parties have been able to work cooperatively to resolve discovery disputes. At this time the parties do not anticipate any discovery disputes.

All discovery motions shall be filed on or before **June 1, 2005**, and heard on or before **July 15, 2005 at 10:30 a.m. MJ**

(b) Each side anticipates filing motions which will be dispositive as to one or more issues.

All dispositive motions shall be filed on or before **June 15, 2005**, and heard on or before **July 29, 2005**.

9. **The prospects for settlement are:** The parties are open to settlement, but have not yet been able to find common ground. The parties have agreed to a settlement conference before the Magistrate Judge.

10. The Preliminary Pretrial Conference shall be held on September 20, 2005, at 2:00 p.m. MJ

11. The parties' pretrial materials, discovery materials, witness lists, designations and exhibit lists shall be filed on or before **September 29, 2005** ^{27 MJ}. This date is fourteen (14) days before the trial date.

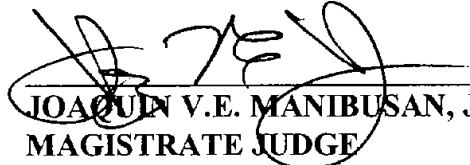
12. The Proposed Pretrial Order shall be filed or before **September 29, 2005** ^{27 MJ}. This date is fourteen (14) days before the trial date.

13. The Final Pretrial Conference shall be held on October 4 ^{27 MJ} ~~September 22, 2005~~ at **2:00 p.m.** This date is twenty-one (21) days before the trial.

14. The trial shall be held on **October 13, 2005** ^{11 MJ} at 9:30 a.m., or at such later date as may be convenient for the Court.

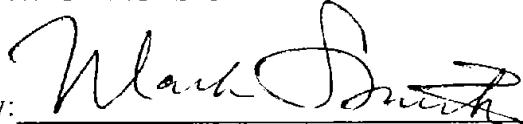
15. The trial is a jury trial.
16. It is anticipated that it will take three (3) days to try this case.
17. The names of counsel on this case are: Mark S. Smith representing Plaintiff, and G. Patrick Civile, representing Defendants.
18. A settlement conference is requested, and has been scheduled by the Court.
19. The parties present the following suggestions for shortening trial: None at the present time due to the case being in the early stages.
20. The following issues will also affect the status or management of the case: None anticipated at the present time.

IT IS SO ORDERED this 24th day of February, 2005.


JOAQUIN V.E. MANIBUSAN, JR.
MAGISTRATE JUDGE


APPROVED AS TO FORM AND CONTENT:

LAW OFFICES OF MARK S. SMITH

By: 
MARK S. SMITH
Attorneys for Plaintiff

Date: February 22, 2005

CIVILLE & TANG, PLLC

By: 
G. PATRICK CIVILLE
Attorneys for Defendants

Date: February 22, 2005

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